

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

VINCENT BLINCOE,
Plaintiff,

No. CV 06-998-PK

ORDER ADOPTING MAGISTRATE JUDGE'S
FINDINGS & RECOMMENDATION

v.

WESTERN STATES CHIROPRACTIC COLLEGE
Defendant.

MOSMAN, J.,

On June 12, 2007, Magistrate Judge Papak issued Findings and Recommendation ("F&R") (#43) in the above-captioned case recommending that defendant's motion to strike and dismiss (#35) be denied in part and granted in part. It is recommend the motion to strike be denied and that the motion to dismiss plaintiff's fraud and intentional spoliation of evidence claims be granted. No objections have been filed.

In conducting my review of the F&R, I apply the following standard. The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge, but retains responsibility for making the final determination. The court is required to make a *de novo* determination of

those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, the court is free to accept, reject, or modify any of the magistrate judge's F&R. 28 U.S.C. § 636(b)(1)(C).

After reviewing the F&R, I ADOPT it without modification. Accordingly, defendant's motion to strike is DENIED, and its motion to dismiss plaintiff's fraud and intentional spoliation of evidence claims is GRANTED.

IT IS SO ORDERED.

DATED this 14th day of July, 2007.

/s/ Michael W. Mosman
MICHAEL W. MOSMAN
United States District Court